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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

THE PEOPLE,

Plaintiff and Respondent,

v.

HOWARD PAUL DANNELEY,

Defendant and Appellant.

E047322

(Super.Ct.No. FVA800248)

OPINION

APPEAL from the Superior Court of San Bernardino County. Stephan G. Saleson, Judge. Affirmed with directions.

H. Reed Webb, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Gary W. Schons, Assistant Attorney General, for Plaintiff and Respondent.

A jury convicted defendant and appellant Howard Paul Dannelley of possessing a knife on school grounds (Pen. Code, § 626.10),<sup>1</sup> and he admitted a prison prior. Defendant challenges the pronouncement of a prison term because the trial court intended to suspend imposition of a sentence. We affirm with instructions to clarify the sentencing minute order.

### **BACKGROUND**

During sentencing, the trial court stated: “Based on the reasons as stated earlier, probation will be denied, you will be sentenced to the California State Prison pursuant to Penal Code Section[s] 669 and . . . 1170.1[, subdivision] (a) as follows: [¶] On Count 1, possession of a weapon on school grounds, violation of section 626.10[, subdivision] (a), the aggravated term of three years, based on your prior record and the seriousness of that record, to be consecutive to the above based on your admission of a prior prison term, for the term of one year; that will be a total term of four years. [¶] It will be recommended that the imposition of that sentence will be suspended. Supervised probation will be granted for a period of three years. [¶] And just so we are all clear on what that language means, because there are terms of art in there. And what it means is, any Judge looking at a violation of probation will not have his or her hands tied as to what amount of time to be imposed. If the sentence were otherwise executed and suspended, any violation of probation would automatically get [defendant] four

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<sup>1</sup> All further statutory references are to the Penal Code unless otherwise stated.

years. This way, at least the Judge can tailor the time in custody, if there is any, to the violation and not be bound by the four years.”

Under the heading of “Sentencing Information” the sentencing minute order states: “As to count 1 court imposes the upper term of 3 years and 0 months [¶] As to prior 1 the court imposes 1 year 0 months [¶] Prior 1 consecutive to count 1 [¶] Sentenced to state pri[so]n for a total of 4 years and 0 months. [¶] Imposition of sentence is suspended”

### **DISCUSSION**

Defendant contends the sentencing minutes should be modified to strike the pronouncement of a sentence because the trial court intended to suspend imposition of a sentence, rather than suspend execution of a sentence that had been pronounced. The People agree the sentencing judge intended to suspend imposition of a sentence rather than suspending the execution of a sentence. The People contend the sentencing minute order was sufficiently clear, but do not oppose modification or remand for increased clarity.

“In granting probation, a trial court may either suspend the imposition of sentence or impose sentence and suspend its execution.” (*People v. Medina* (2001) 89 Cal.App.4th 318, 321.) A sentence that has had its execution suspended must be imposed upon revocation and termination of probation. (See *People v. Howard* (1997) 16 Cal.4th 1081, 1095; see also § 1203.2, subd. (c).) Appellate courts have the inherent power to correct clerical errors to make records reflect the true facts. (*People v. Mitchell* (2001) 26 Cal.4th 181, 185.)

Because the trial court suspended imposition of a sentence, the sentencing minute order should be modified to clearly indicate imposition of sentencing was suspended and the length of a sentence has not been predetermined.

**DISPOSITION**

The trial court is directed to amend the sentencing minute order so that under the heading “Sentencing Information” everything but “Imposition of Sentence Is Suspended” is deleted. In all other respects, the judgment is affirmed.

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RAMIREZ  
P. J.

We concur:

GAUT  
J.

KING  
J.